

University of Oklahoma College of Law
University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

4-14-1892

Changing boundary of Uncompahgre Reservation.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 1076, 52nd Cong., 1st Sess. (1892)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

CHANGING BOUNDARY OF UNCOMPAGHGRE RESERVATION.

APRIL 14, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BRAWLEY, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 69.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 69) to change the boundary of the Uncompahgre Ute Indian Reservation, have examined the same and report it with amendments, with a recommendation that it do pass.

By section 1 the bill restores to the public domain eighteen townships situated on the eastern border of the Uncompahgre Ute Indian Reservation, in the Territory of Utah.

By section 2 the bill provides—

That from and after the passage of the act that any of said lands that may be more valuable for mineral purposes than for agriculture shall be open for exploration and purchase by citizens of the United States or those who have declared their intention to become such, according to existing laws for the disposal of mineral lands; and such portions thereof as may be nonmineral in character shall be otherwise disposed of according to the existing laws for the disposal of other public lands of the United States: *Provided*, That any mineral location, entry, or entries, mineral or nonmineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, who shall have made the same in good faith, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, but said mineral location or entries shall not be completed except upon the payment of twenty dollars an acre, or at that rate for the amount taken up by the claim. And the proceeds of these lands, after paying the costs of the three commissioners hereinbefore provided for, shall constitute a fund in the Treasury of the United States to be devoted to the education of said Uncompahgre Ute Indians in such manner as Congress shall hereafter declare.

There appear to be on the lands in question valuable deposits of asphaltum, or gilsonite, a mineral which has not been found in any other part of the United States, and the propriety of opening it to exploration and development would seem to be unquestioned. The Indians are not occupying the lands, and from the report of the Commissioner of Indian Affairs they are entirely unsuited to their use. They are mainly valuable for asphaltum and such other minerals as may hereafter be discovered. The reservation contains some 2,000,000 of acres and was set apart by Executive order only for the purpose of making allotments to the Uncompahgre Utes, of which in 1888 there were but 1,007, and there is therefore nearly 2,000,000 acres in excess of the quantity which will be required for these allotments. The Commissioner of Indian Affairs and the Secretary of the Interior have both approved the measure restoring these townships to the public domain, and such course is directly in line with the policy of Congress as mani-

fest by the act of May 2, 1888 (25 Stat., 157), in which a considerable tract of land lying northwest of these townships was restored on account of the gilsonite which had been discovered therein. We annex hereto the reports of the Secretary and Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington, March 14, 1890.

SIR: I have the honor to acknowledge the receipt of your communication of the 3d ultimo, referring with request for such information in regard to the matter as may be in the possession of the Department, with such recommendation as may be deemed proper, S. 1762, "To change the boundaries of the Uncompahgre Reservation."

This bill proposes to restore to the public domain two ranges of townships on the east side of said reservation adjoining the Colorado State line; to dispose of the same at public or private sale; to place the moneys arising from said sale to the credit of the Uncompahgre Indians, and to allow locations heretofore made or attempted to be made on said restored lands, by any qualified person, to bear date the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, etc. In response thereto, I transmit herewith copy of a communication of 19th ultimo, and accompanying papers, from the Commissioner of Indian Affairs, to whom your letter was referred.

The report of Special Indian Agent Gordon, which accompanies the Commissioner's communication, shows that the lands subject to be segregated are rough and mountainous, and contain no agricultural lands, and that they are not required by the Indians. In view of this report the Commissioner offers no objection to the segregation of said townships and their restoration to the public domain, provided the consent of the Indians be first obtained and suitable compensation made to them for the lands so taken.

In the views of the Commissioner as to obtaining the consent of the Indians to the segregation and paying them for said lands I do not concur, for the following reasons:

The Uncompahgres, by the agreement ratified by act of June 15, 1880 (21 Stat., 199), promised to remove to and settle upon agricultural lands on Grand River near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there; if not, then upon such unoccupied lands as may be found in that vicinity and in the Territory of Utah. Allotments in severalty were provided for, which allotments were to be paid for at the rate of \$1.25 per acre from the proceeds of the sale of their lands in Colorado.

The Uncompahgre Reservation, created by Executive order of January 5, 1882, was not intended to be set apart as a *permanent reservation* for the Uncompahgres, but simply for the purpose of withholding from white settlement or occupation, or other appropriation, a sufficient quantity of land to make allotments to said Indians, as provided in the before-mentioned Ute agreement of 1880, and these lands not having been ceded to them, they are not entitled to any pay for such as are sought to be segregated, and should not be, as they are not required to pay for them out of the proceeds of the sales of the Indian lands in Colorado, and therefore their consent to the diminution of the reservation is not necessary.

The provisions in section 2 relative to "any location, entry, or entries," etc., allowing them "to bear date and be allowed the same as if lands had been public lands at the time of said attempted location," should, I think, be amended. There may have been some claims located near the boundary line and within the reservation, on account of the line not being clearly marked and designated, which claims should be protected, but the proviso should include only such as show conclusively their good faith in making their claims, otherwise the Government is offering a premium to trespassers and violators of law and order of the President in establishing temporary reservation for these Indians.

Very respectfully,

JOHN W. NOBLE,
Secretary.

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,
United States Senate.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 19, 1890.

SIR: I have the honor to acknowledge the receipt, by Department reference the 4th instant, for report, of a letter from Hon. Henry L. Dawes, chairman of the Senate Committee on Indian Affairs, inclosing S. 1762, Fifty-first Congress, first session, "A

bill to change the boundaries of the Uncompahgre Reservation," with request for such information in regard to the matter as may be in the possession of this Department and such recommendation as the Department may deem proper to make relative thereto.

The bill provides for the restoration to the public domain of two ranges of townships (eighteen townships in all) of the Uncompahgre Ute Indian Reservation, in Utah Territory, and for the sale of the lands embraced therein at public or private sale, in the discretion of the Secretary of the Interior, in quantities not exceeding a quarter of a section to any one purchaser, the nonmineral lands not to be sold for less than \$1.25 per acre and not otherwise than for cash. All entries, mineral or non-mineral, hitherto made or attempted to be made upon any portion of said lands to be allowed the same as if said lands had been public lands at the time of the attempted location or institution of proceedings, but such mineral entries not to be completed except upon the payment of \$20 an acre, or at that rate for the amount taken up by the claim.

It is further provided that all moneys arising from the sale of the restored tract shall belong to said Indians (the Uncompahgre Utes) and be paid into the Treasury of the United States and held and added to any trust of said tribe now there.

Upon this subject I have to state that the question of the practicability and advisability of restoring said townships to the public domain was before the Department nearly a year ago in this wise: Under date of March 23, 1889, Mr. G. C. Hewitt, of Glenwood Springs, Colo., petitioned the Department to have said townships restored to the public domain for the reason as alleged that the lands embraced therein were valuable to the public for the mineral deposits known to exist there, and utterly worthless to the Indians for agricultural or grazing purposes.

Mr. Hewitt's communication was referred to this office for report as to the merits of his suggestions and as to the best methods of procedure in the event of their adoption.

With a view to obtaining information necessary to enable the office to give an intelligent opinion upon the question presented, Special United States Indian Agent George W. Gordon was directed, June 7, 1889, to proceed to the Uintah Agency and make a thorough inspection of the eighteen townships of land in question and report as to the feasibility, wisdom, and propriety of segregating the same from the reservation and restoring them to the public domain. He was particularly instructed to investigate and consider the question with special reference to the future well-being of the Indians and the obligations of the Government to them under the agreement ratified and confirmed by act of June 15, 1880 (21 Stat., 189); to ascertain whether any considerable portions of said townships are suitable for agricultural or grazing purposes, and if so, about how much, and whether any of the Indians would be likely to select lands there for allotment in case allotments in severalty were made to the tribe.

It was remarked in the instructions given to the special agent that the lands in the extreme eastern portion of the reservation had never been supposed to be of much value for allotment purposes, and that whenever the question of making allotments in severalty to the Indians had been considered, the western portion of the reservation had been presumed to afford about the only suitable lands for allotment, except that portion of the Uintah Valley Reservation reserved for the Uncompahgres, from the junction of the Duchesne River with the Green up to the point 8 miles above the mouth of the Uintah River.

Special Agent Gordon made the required inspection and investigation and rendered his report under date of July 31, 1889. Said report was transmitted to the Department October 23, 1889, with the following remarks thereon by this office:

"From an examination of the map herewith (General Land Office map of Utah, 1884), it will be observed that six of the eighteen townships in question are north of White River. Of these six townships the special agent states that about one-half may be classed as 'second or third rate pasture land,' the remainder being composed of 'barren mountains, hills, and alkaline areas,' and that the portion designated as second or third rate pasture land is available for stock only during the winter season or early spring, owing to the total absence of water, and that there is absolutely no agricultural land within the six townships that could be made available at any reasonable cost.

"He describes the land south of White River (within the eighteenth township) 'extremely rugged and fearfully riven, being pinnaced with mountains, crags, and cliffs and torn with cañons, arroyos, and ravines.' He states that the Indians never visit it; that neither birds nor beasts are found there; that it is practically without timber, and affords neither grass nor water—'a wild and ragged desolation, valuable for nothing unless it shall be found to contain mineral deposits. The only exception to this is in some of the high mountain regions where there are plateaus or mesas affording a considerable area of summer pasturage.'

"To sum up, the special agent states that 'there are no agricultural lands in the

eighteen townships in question that it would, in my (his) opinion, be advisable now or hereafter to attempt to practically utilize for agricultural purposes. * * * In brief, there are practically no reasonably available agricultural lands within said eighteen townships."

"As regards grazing lands, he estimates that north of White River there may be from 85,000 to 90,000 acres of what might be termed second, third, and fourth rate pasture land, available, however, only in the winter season, owing to the absence of water at all slopes of the mountains, and including some of the cañons. There may be altogether say 15,000 or 20,000 acres of first-rate pasturage, but on account of the high altitude this is available only for summer and early fall pasturage.

"The special agent further states that it is not at all likely that any Indians will ever settle anywhere in the eighteen townships, there being absolutely nothing to attract them there except possibly a little pasturage for their small herds, of which they have a sufficiency elsewhere on their reservation."

The special agent describes the condition and needs of the Uncompahgres at great length, and all that is said upon the subject seems to sustain the view he takes in respect to the eighteen townships in question, i. e., that the Indians do not and probably never will need the lands embraced therein or make any use of them whatsoever.

It appearing, then, that the lands in question can be segregated from the reservation without in the least endangering the future well-being of the Indians or interfering with the obligations of the Government to them under the aforesaid agreement of 1880, this office will offer no objection to the segregation of said townships from the reservation and their restoration to the public domain, provided the consent of the Indians be first obtained, and suitable compensation made to them for the lands so taken. This could be done through legislation by Congress, as in the case of Uintah Valley Reservation reduction in 1888, where a small tract of land valuable chiefly for minerals was restored to the public domain, the Indians assenting thereto (25 Stat., 157).

On November 2 following, the special agent's report and accompanying papers were returned to this office by the Department, with a note by the Secretary to the effect that he was not disposed to act on the matter further unless other reasons were presented for curtailing the reservation assigned to the Indians, and that if nothing new was offered the papers should be filed.

There being no further facts or information to report to the Department, the subject was dropped and the papers filed as directed.

The reference by the committee of the Senate bill for information and recommendation reopens the subject, and in response to the committee's inquiries I have to state that in the absence of any information other than that which was before the office at the time I see no reason for receding from the position taken in office report of October 28, 1889, that "this office will offer no objection to the segregation of said townships from the reservation and their restoration to the public domain, provided the consent of the Indians be first obtained and suitable compensation made to them for the lands so taken."

The bill under consideration provides for compensating the Indians through the sale of the segregated lands, but it does not require that the consent of the Indians shall be obtained.

While the Government may not be in duty bound to submit the question for the consent of the Indians, for the reason that the Uncompahgre Reservation was not intended to be set apart as a permanent reservation for the Uncompahgres, but simply for the purpose of withholding from white settlement or occupation, or other appropriation, a sufficient quantity of land to make allotments to said Indians, as provided in the before-mentioned Ute agreement of 1880, and until such allotments should be made, and for the further purpose of defining the territorial jurisdiction of the Indian agent, which was found necessary in dealing with trespassers and intruders; still, in view of the fact that the Indians themselves undoubtedly believe they have a just claim to the entire reservation, and to avoid any suspicion of bad faith on the part of the Government, I think the consent of the Indians should be obtained to the proposed segregation of land from their reservation, as was done about two years ago in the case of the segregation of a small tract of land from the Uintah Valley Reservation occupied by a kindred tribe, and I accordingly so recommend.

For the information of the Senate committee I transmit herewith a copy of Special Agent Gordon's report and of Mr. Hewitt's letter, hereinbefore referred to.

Senator Dawes's letter, the Senate bill, and copy of this report are also inclosed.

Very respectfully, your obedient servant,

R. V. BELT,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.